

RECEIVED
CENTRAL FAX CENTER

JAN 30 2006

FAX TRANSMISSION

DATE: January 30, 2006

PTO IDENTIFIER: Application Number 10/633,407-Conf. #6007
Patent Number

Inventor: Douglas W. Losordo et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: EDWARDS ANGELL PALMER & DODGE LLP
Melissa Hunter-Ensor, Ph.D.

PHONE: (617) 439-4444

Attorney Dkt. #: 58098(71417)

PAGES (Including Cover Sheet): 5CONTENTS: Response to Restriction Requirement (with Traverse) (3 pages)
Certificate of Transmission (1 page)

If your receipt of this transmission is in error, please notify this firm immediately by collect call to sender at (617) 439-4444 and send the original transmission to us by return mail at the address below.

This transmission is intended for the sole use of the individual and entity to whom it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. You are hereby notified that any dissemination, distribution or duplication of this transmission by someone other than the intended addressee or its designated agent is strictly prohibited.

EDWARDS ANGELL PALMER & DODGE LLP
P.O. Box 55874, Boston, Massachusetts 02205
Telephone: (617) 439-4444 Facsimile: (617) 439-4170

PTO/SB/97 (09-04)

Approved for use through 07/31/2000. OMB 0651-0031

U. S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

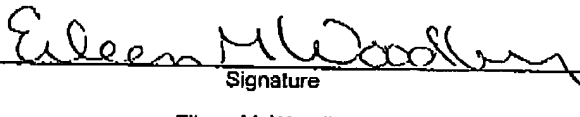
Application No. (if known): 10/633,407

Attorney Docket No.: 58098(71417)

Certificate of Transmission under 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office.

on January 30, 2006
Date


Signature

Eileen M. Woodbury

Typed or printed name of person signing Certificate

Registration Number, if applicable

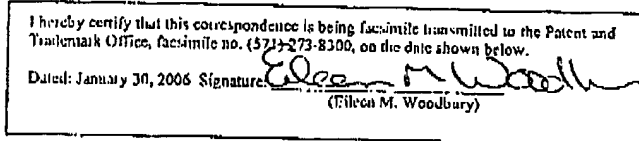
(617) 439-4444
Telephone Number

Note: Each paper must have its own certificate of transmission, or this certificate must identify each submitted paper.

Response to Restriction Requirement (with Traverse) (3 pages)

RECEIVED
CENTRAL FAX CENTER

JAN 30 2006

Docket No.: 58098(71417)
(PATENT)**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:
Douglas W. Losordo et al.

Application No.: 10/633,407

Confirmation No.: 6007

Filed: August 1, 2003

Art Unit: 1646

For: CELL MODULATION USING A
CYTOSKELETAL PROTEIN

Examiner: Not Yet Assigned

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Claims 1-74 are pending in the instant application and are subject to restriction. The Office requires restriction between the following groups:

Group I: Claims 1-48 and 66-74, which are generally directed to methods of modulating endothelial cell proliferation in a mammal or reducing the severity of blood vessel damage in a mammal, comprising administering an ezrin modulating agent, pharmaceutical product comprising cells and kits for introduction of cells;

Group II: Claims 49-61, which are generally directed to *in vitro* methods for identifying a compound that modulates ezrin activity; and

Group III: Claims 62-65, which are generally directed to methods of detecting binding between ezrin and the mammalian cyclin A gene.

In response to the restriction requirement set forth in the Office action mailed December 29, 2005, Applicants provisionally elect the invention of Group I, claims 1-48 and 66-74, for continued examination. The Office further requires restriction among ezrin

526120

Application No.: 10/633,407

2

Docket No.: 58098(71417)

modulating agents. In response, Applicants provisionally elect Y27632. In addition, the Office requires a species election between angiogenic proteins, cytokines, and hematopoietic proteins as listed in claims 27-29. In response, Applicants provisionally elect VEGF-1. The Office further requires species election between ischemia associated with the conditions listed in claim 39. In response, Applicants provisionally elect limb ischemia.

For the reasons detailed below, Applicants respectfully traverse the requirements for restriction and election, and submit that the requirements are improper.

First, Applicants assert that the subject matter of these groups represent different embodiments of a single inventive concept for which a single patent should issue. The pending claims represent an intricate web of knowledge, continuity of effort, and consequences of a single invention, which merit examination of all of these claims in a single application. More particularly, a single, searchable, unifying aspect links all of the claims. This single, searchable, unifying aspect relates to modulating the activity of ezrin, a cytoskeletal protein.

Second, Applicants submit that a sufficient search and examination with respect to the subject matter of all claims can be made without serious burden. As the M.P.E.P. states:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. M.P.E.P. § 803 (8th ed., Rev. No. 2, May 2004).

That is, even if the above-enumerated groups of claims are drawn to distinct inventions, the Examiner must still examine the entire application on the merits because doing so will not result in a serious burden. This is especially true given the robust and extensive computerized search engines and databases at the Examiner's disposal. Accordingly, it is respectfully requested that the restriction requirement be reconsidered and the elected claims of Group I be rejoined with those of Groups II-III, so that claims 1-74 may be presently examined.

Application No.: 10/633,407

3

Docket No.: 58098(71417)

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. . 04-1105.

Dated: January 30, 2006

Respectfully submitted,

By 

Melissa Hunter-Ensor, Ph.D.

Registration No.: 55,289

EDWARDS ANGELL PALMER & DODGE
I.L.P.

P.O. Box 55874

Boston, Massachusetts 02205

(617) 439-4444

Attorneys/Agents For Applicant

USIS2_526120.1